CIOMA CALIFORNIA INDEPENDENT OIL MARKETERS ASSOCIATION
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January 18, 2005

California Energy Commission
Re: Docket No. 02-PII-01
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504

Subject: CIOMA Comments on proposed changes to Petroleum Industry Reporting Requirements

To Whom It May Concern:

We thank the Energy Commission for the opportunity to comment on regulations that will directly affect our members and our segment of the petroleum distribution industry. CIOMA represents independent marketers who purchase gasoline and other petroleum products from refiners and sell the products to independent gasoline retailers, businesses, and government agencies, as well as representing branded "jobbers" who supply branded retail outlets, especially in rural areas. Our members are primarily small, family owned businesses who encounter unique difficulties in meeting California's complex and increasingly expensive environmental and regulatory requirements. We represent approximately 400 members, about half of whom are actively engaged in the marketing and distribution of petroleum products and fuels.

We have <u>several significant and serious concerns</u> with the proposed regulations and supporting materials as released by the Energy Commission December 3, 2004. Our primary concern is that the proposed regulations impose new and very detailed reporting requirements on segments of the industry that have not previously had to report. And, the Initial Statement of Reasons (ISOR) indicates that there will be no financial impact to small businesses. This is a very erroneous conclusion – there will be significant financial burdens placed on our small business members due to these new and labor-intensive reporting mandates. Further the ISOR is inaccurate in estimating the numbers of entities who are required to report.

In addition, if not significantly modified to address our concerns, we request that this package be taken before the Commission in a public meeting so that we can fully explain our issues and concerns to the Commissioners.

Our comments on the specific definitions and reporting requirements follow:

<u>Annual Retail Outlet Survey form and requirement</u> – As was expressed during a workshop, we believe that this form and reporting requirement should be deleted from this regulatory consideration and be subject of a separate proceeding. The Energy Commission is <u>significantly</u> increasing the scope of its reporting requirement to a broad reporting population (approximately 2500 by the Commission's own estimate). California has

approximately 9500 service stations, although many of those may be owned by a parent company. However, the reporting is required for each retail unit. As one can see by reviewing the estimated number of companies that will have to report, this is far and away the largest reporting category, and it is a *new* category.

We suggest that the Energy Commission hold a separate rule making on this requirement as we believe that many retail owners and operators are not aware of this new requirement. In addition, we believe that much of the information required has already been submitted by service stations in other reporting requirements from the Board of Equalization, local health agencies, the Division of Weights and Standards, the Water Board and other entities. With new and separate proceedings for this requirement, a more streamlined reporting burden could be developed lessening the redundant paperwork and research requirement contained in the current regulation.

We note that the Initial Statement of Reasons (ISOR) indicates that there will be no economic impact on small businesses. This statement is in error. Many small service stations will incur a new and expensive reporting requirement. In anecdotal information from some of our members it is estimated that this reporting requirement could cost from $750 - $1000 per year to aggregate and report. This is a significant cost to small businesses. We request that the Energy Commission prepare a thorough economic impact analysis on small businesses from this regulation, as required by state law, so that the Commission may be fully appraised on the financial burden that will be disproportionately felt by small businesses.

<u>Dealer Tank Wagon Price Reporting</u> – We have concluded that the regulations ONLY require refiners to report dealer tank wagon price reports (Section 1366 (i)). This is consistent with pledges made by the Energy Commission to CIOMA during the passage of enabling legislation that created the DTW price reporting requirement. For the record, independent oil marketers do not engage in DTW pricing – that pricing mechanism is a construct of the refiner-to-retailer segment of the industry and is appropriately limited to refiners directly supplying retail outlets. However, we have a major problem with the new requirement of a California Monthly Sales Report (see following) imposed on Major Marketers.

<u>Definition of Major Marketer and new reporting requirements</u> – The definition of a Major Petroleum Products Marketer is a firm that sells 20,000 barrels (960,000 gallons) or more of petroleum product per month. This will expose approximately 50% (about 100 members) of the CIOMA membership into a new and very expensive reporting mandate. The reporting requirements include:

- Monthly Sales Report – This report requires very detailed volume and pricing information. This is a new reporting requirement for all of our members and it will require substantial labor and reconfiguration of accounting / product management software to accomplish this requirement. Using a very rough estimate we believe it will cost approximately $15,000 - $20,000 in up-front costs and annualized labor costs of $5,000 – $6,000.

  Further, when we negotiated with the Energy Commission regarding pricing reporting we were assured that our members would <u>not</u> be subject to price reporting requirements as they are difficult and expensive to extrapolate, and are of marginal value to the

Commission due to the large amount of analysis needed to normalize statistical attributes. We believe this requirement is reneging on the assurances provided to us during legislative negotiations and will provide largely useless information.

- California Retail Outlet Annual Survey (addressed in preceding comments).

To clarify a misconception, our members do not currently report to the Department of Energy.

Definition of Major Transporter and new reporting requirements – The definition of "Major Transporter" is firm transporting 20,000 barrels (960,000 gallons) or more of petroleum product in a month. Again, this would subject many of our members to new reporting requirements. It is more difficult to determine the percentage in that our members may use their own transport vehicles or may use common carriers for transportation. And, this mix is neither constant nor easily predictable. On that basis, alone, we question whether this reporting will provide needed or readily useful information. The new reporting requirements are:

- Weekly Import, Export and Interstate Movements Report – This requires our members to report imports and exports by marine vessel, pipeline and rail car. A question arises regarding our members who are pipeline position holders. If this information is logged by refiners and storers, wouldn't our member-supplied information lead to redundant reporting of product movement? It seems to us the only really important issue here is rail cars of ethanol. Again, it would seem that the terminal is the crucial place for aggregating that information since that is where the ethanol and gasoline are blended. Intermediate movements of ethanol should not be important in fuel consumption statistics.
- Monthly Import, Export and Interstate Movements Report – The same issues noted in the previous section apply here. There is one additional requirement regarding the distribution of non-specification fuels to in-state delivery points. We believe *any* transporter should be required to supply this information – we recommend a separate reporting form and applicability definition for this item.
- Annual Major Products Transporter Annual Report – This report appears to be geared to the major pipeline and terminal firms in the state, not CIOMA members.

In conclusion we suggest that the reporting requirements be tailored to meet the Commission's needs, not an arbitrary volume number. Another alternative would be to require this information only from those who have to report to the Department of Energy. We would be happy to assist in developing reporting requirements and forms which are practical, cost effective and supply truly useful information to the Commission.

Further, if any of the regulatory proposals we have identified are ultimately considered for adoption we *strongly urge* the Commission to prepare a detailed economic analysis evaluating the impacts to small businesses prior to adoption of the regulations. This will assist the Commission in determining whether the requirements provide a cost-effective imposition and whether the requirements have the potential to hurt California businesses in staying competitive and viable.

If you have any questions regarding this communication please contact me at the CIOMA offices.

Sincerely,

Jay McKeeman
Government Relations Director

cc: Pat Perez, Gordon Schremp & Sue Kateley, California Energy Commission